



Montoya, Darlene <dmontoya@nmag.gov>

RE: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

2 messages

Montoya, Darlene <dmontoya@nmag.gov>
To: fosterr@bloomfieldnm.com

Mon, Dec 19, 2016 at 3:14 PM

Chief:

Attached please find correspondence from the Law Enforcement Board Subcommittee regarding the above-referenced matter.

If you have any questions or concerns, please do not hesitate to contact me. Thank you

—
Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
[\(505\) 490-4854](tel:(505)490-4854)



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Randy Foster <fosterr@bloomfieldnm.com>
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Tue, Dec 20, 2016 at 2:53 PM

As you requested. We have the Sergeants go through these policies yearly with their patrolmen. We review all policies in December and issue out a new policy manual in January highlighting any changes. Any mid-year changes are done in an interim order and all personnel are trained on them.

Let me know if you have any guidance. Always looking to better ourselves.

RF

From: Montoya, Darlene [mailto:dmontoya@nmag.gov]
Sent: Monday, December 19, 2016 3:15 PM
To: Randy Foster <fosterr@bloomfieldnm.com>
Subject: RE: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

[Quoted text hidden]

4 attachments



ADM.06.01 Firearms Policy 2016.doc

68K



ADM.05.01 Use of Force - Objectively Reasonable Standard 2016.docx

30K



ADM.05.01.1 Officer Involved Shooting 2016.docx

26K



ADM.06.02 Taser 2016.doc

36K

**BLOOMFIELD
POLICE DEPARTMENT**

NUMBER:	POLICY NO:	LAST MODIFIED:	EFFECTIVE DATE:	PAGE NO:
ADM.06.01	04-11	11/03/2014	January 01, 2016	1 of 11

SUBJECT:	APPROVED BY:
Firearms	Randy Foster, Chief of Police

NMLEA STANDARDS: ADM.06.01; ADM.05.02; ADM.05.03

LAST REVIEW: 11/23/2015

PURPOSE:

To establish a standard for firearms, firearms training, qualifications, methods of carry, ammunition, instruction, and maintenance.

POLICY:

It is the policy of the Bloomfield Police Department to establish and implement programs and procedures to ensure the proficient, responsible, and safe use of firearms.

PROCEDURE:

The law and the will of the people give to peace officers, and others so authorized, the most awesome power it is possible to bestow. We have been entrusted with the right to carry deadly firearms, free from the many restrictions placed upon the private citizens. We have also been empowered to use these firearms as long as we continue to act responsibly and within the rule of the law. In order to retain this trust and confidence of the people, it is necessary that reasonable policies be established by the Department.

Therefore, it is the general purpose of this policy to protect the private citizen against unreasonable use of police firearms, and to protect the officers of this Department against unreasonable liability arising from the necessary use of firearms in the line of duty.

The regulations contained in this policy, and the uses of firearms herein authorized, comprise the limitations established by the Chief of Police. Any officer who exceeds these limitations or fails to comply with these regulations shall be subject to disciplinary action, unless the officer can adequately justify that the action taken was legal, safe, and necessary. The burden of such justification shall be upon the officer.

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APPLICABILITY:

The provisions of this policy, and any other Departmental regulation pertaining to firearms, shall apply equally to all Police Officers, Reserve Police Officers, and others as designated, whether full time, part time, or auxiliary employees of the Bloomfield Police Department, regardless of rank or assignment. They shall also apply equally to any other person associated in any manner with the Department.

EXCLUSIONS:

The provisions of this policy do not apply to firearms, which are property or evidence. The proper handling of those firearms is covered by a separate policy regulating the handling of property and evidence.

The provisions of this policy do not apply to the off duty use of privately owned firearms when used for legal purposes.

REQUIREMENT TO CARRY FIREARMS:

Peace Officers, as designated under Chapter 29, Article 7 NMSA 1978 shall carry firearms on their person while on duty and outside of any Police facility.

Peace Officers are not required to carry firearms while off duty. Any firearms carried under the color of office must be on file with the department and the officer must demonstrate proficiency with the weapon.

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AUTHORITY TO CARRY AND USE FIREARMS WHILE ON DUTY:

Members of the Police Department are authorized to carry and to utilize firearms while on duty under the authority of their employment whenever:

1. They are a peace officer, as designated under Chapter 29, Article 7 NMSA 1978 and are acting in accordance with the provisions of Chapter 30, Article 7, Section 2 (3) NMSA.
2. They are a Reserve Police Officer acting in accordance with the provisions of Chapter 30, Article 7, Section 2 (4) NMSA.
3. They have satisfactorily completed a prescribed Department training course in the legal aspects and Department policies relating to firearms, and
4. They are currently qualified by the Firearms Instructor with the firearm to be carried or used.

DEFINITIONS:

Duty Weapon - The primary firearm carried by a member of the Department while on duty.

Optional Firearm - A firearm not issued by the Department to be used as a primary Duty Weapon.

Additional Firearm - A second firearm carried on duty (backup weapon).

Off Duty Firearm - A concealable firearm carried when not on duty.

AUTHORIZED FIREARMS AND AMMUNITION:

Personnel are only authorized to carry firearms and ammunition issued or approved by the Department as their duty weapon and ammunition.

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Optional Firearms and ammunition shall meet the following minimum standards:

1. The weapon has been certified as safe by a department designated Firearms Instructor or a gunsmith authorized by the firearm manufacturer to inspect a particular weapon.
2. The Chief of Police may authorize other Optional Firearms on an individual basis.

Additional (backup) and Off Duty firearms and ammunition shall meet the following minimum standards:

1. The weapon must be of current design, from a reputable manufacturer, and in proper working order.
2. The weapon is at least .380 caliber and carries at least five rounds.
3. The ammunition used is commercially manufactured and designed for that weapon and approved for use by the department firearms instructor.

No Teflon, armor piercing, tracer, fully jacketed, exploding, incendiary design, or reloaded ammunition is authorized.

Shotgun Ammunition and usage:

1. Only Department issued shotguns, approved optional weapons and ammunition shall be used.
2. The Department issued buckshot is authorized for general law enforcement purposes.
3. The Department issued rifled slug is also authorized.

Department issued duty weapons, approved ammunition, approved additional firearms, and approved optional duty firearms are authorized to be carried off duty.

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AUTHORITY TO CARRY OPTIONAL FIREARM WHILE ON DUTY:

Members of the Police Department who are authorized to carry and utilize firearms while on duty may carry an Optional firearm while on duty under the following conditions:

1. Permission has been requested and received in writing from the Chief.
2. The Optional weapon and ammunition to be carried meet the criteria in the "Authorized Firearms and Ammunition" section of this policy.
3. They are currently qualified by the department Firearms Instructor with the Optional firearm.
4. They shall qualify with their Optional firearm as frequently as is required for a duty weapon. With the exception of ammunition consistent with a department issued duty weapon, the individual officers desiring to carry an Optional weapon will furnish all other ammunition used for such qualification with an optional firearm.

AUTHORITY TO CARRY ADDITIONAL FIREARM WHILE ON DUTY:

Department owned additional firearms are issued to members of the Bloomfield Police Department who are authorized to carry and utilize firearms. Members of the Police Department who are authorized to carry and utilize firearms while on duty may carry an additional firearm under the following conditions:

1. Permission has been requested and received in writing from the Chief.
2. The additional weapon and ammunition to be carried meet the criteria in the "Authorized Firearms and Ammunition" section of this policy.
3. They are currently qualified by the department certified Firearms Instructor with the additional firearm.
4. They shall qualify with their additional firearm as frequently as is required for a duty weapon. With the exception of ammunition consistent with a department issued duty weapon, all ammunition used for such qualification with an optional firearm will be furnished by the individual officers desiring to carry an additional weapon.

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5. The additional firearm to be carried is a backup weapon, and is not to be utilized as the primary firearm.
6. The additional firearm shall be carried in an inconspicuous and concealed manner.

AUTHORITY TO CARRY AND USE CONCEALABLE OFF DUTY FIREARMS WHEN NOT ON DUTY

Members of the Police Department who are peace officers as prescribed in NMSA 29-7-6 are authorized to carry and use a concealable firearm off duty when:

1. They have satisfactorily completed a prescribed Department training course in the legal aspects and Department policies relating to firearms.
2. If not a Duty Weapon, Optional Firearm, or Additional Firearm, permission has been requested and received in writing from the Chief.
3. The off duty weapon and ammunition to be carried meet the criteria in the "Authorized Firearms and Ammunition" section of this policy.
4. They are currently qualified by the department certified Firearms Instructor with the off duty firearm. With the exception of ammunition consistent with a department issued duty weapon, all ammunition used for such qualification of off duty firearms will be furnished by the individual officers desiring to carry a privately owned off duty weapon.

RESTRICTIONS UPON CARRYING FIREARMS:

Peace officers or other approved employees are restricted from carrying firearms under the following conditions:

1. While on disciplinary or investigative suspension.
2. At the discretion of the Chief of Police, while on extended leave without pay, or other period of unpaid absence from the Department.
3. While consuming alcoholic beverages.

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4. While in a condition resulting from the use of alcohol or medication, where the employee's motor skill, reflexes, or judgement could be affected.
5. Off duty, when the firearm is carried in public in a manner that is offensive to a reasonable person.
6. When ordered by the Chief of Police or other superior officer not to carry a firearm.

AUTHORITY TO DRAW AND DISPLAY FIREARMS:

Officers are authorized to draw their duty weapon from its holster, or to display other firearms in public, under the following conditions:

1. Hazardous Circumstances: When the circumstances would indicate conditions that are hazardous to the officer's safety, or to the safety of others.
2. Felony Searches: In order to search for, apprehend, subdue, arrest, or to maintain custody of a felony suspect whom the officer has reason to believe is an immediate threat to the safety of the officer or others.
3. Maintenance, Inspection, and Instruction: To handle such weapons for maintenance, inspection, or instructional purposes, providing that the weapons are empty of any ammunition.

AUTHORITY TO DISCHARGE FIREARM:

Officers are authorized to discharge firearms in the line of duty under the following circumstances:

1. To Protect Life: To protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury.
2. Against Certain Resisting or Escaping Felons: To prevent the escape of or stop a suspected felon who has committed a crime involving the infliction or threatened infliction of serious physical injury and has the ability to carry out that action or threat against others. Tennessee V. Garner 471 US 1985

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3. Upon Certain Injured or Dangerous Animals: Firearms may be used to end the misery of a seriously injured animal, or to kill a dangerous animal, when other disposition is impractical.
4. Training: Firearms may be used on an approved range, or during other approved firearms training, when supervised by an authorized Firearms Instructor.
5. Warning Shots: Officers are cautioned that death, injury, or property damage can result from the discharge of warning shots. Therefore, warning shots are not authorized under this policy.

DISCHARGE OF FIREARM AT OR FROM A MOVING VEHICLE:

Officers are cautioned on the hazards involved in shooting at or from a moving vehicle. Accuracy is severely diminished, and the potential for hitting innocent citizens is greatly increased. Ricochet and wild shots are common, and must be anticipated under such circumstances. Since shooting at or from a vehicle is, in reality, shooting at the occupant the involvement or culpability of each occupant must be considered.

Therefore, it is the general policy that firearms shall not be discharged at or from moving vehicles whenever there is a possibility of endangering an innocent person.

The only circumstances under which a firearm may be discharged at or from a moving vehicle are:

1. When the officer is authorized by this order to discharge his or her firearm, and that such authorization applies to all known occupants of the vehicle, and
2. The officer has taken all necessary precautions to insure that his or her shot will not jeopardize the safety of others.

REQUIRED REPORTING OF FIREARMS DISCHARGE:

Any officer shall immediately report the discharge of a firearm to the on-duty Patrol supervisor under the following circumstances:

1. Any intentional discharge, except on a supervised range or training exercise.

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2. Any accidental discharge, regardless of the location or circumstances. However, accidental discharges fired on a supervised range or training exercise that do not result in death, injury, or property damage, need only be reported to the Firearms Instructor or other Training supervisor on the scene.

Upon being notified, the on-duty Patrol supervisor shall immediately notify a Lieutenant.

INVESTIGATION OF SHOOTINGS:

Refer to Officer Involved Shooting policy

REQUIRED FIREARMS TRAINING:

It shall be the responsibility of the Operations Lieutenant to designate a lead firearms instructor. The lead instructor will insure that the following minimum standards of firearms training are provided to the appropriate members of the Police Department.

1. All personnel authorized by this policy to carry firearms shall have completed an approved course on firearms, regardless of rank or longevity.
2. All personnel authorized by this policy to carry firearms shall be given firearms training, as required by Chapter 30, Article 7, Section 2 NMSA.

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3. The lead Firearms Instructor shall monitor all legislative and policy changes relating to the use of firearms by peace officers, and shall provide necessary updated training in a timely manner.
4. The lead Firearms Instructor shall provide for all necessary instruction on the safe and effective use of departmental firearms.
5. The lead Firearms Instructor shall provide a firing range program for use by Department personnel.
6. The lead Firearms Instructor shall administer a firearms qualification program that insures reasonable competency among all persons authorized by this policy to carry weapons in accordance with standards issued by the New Mexico Department of Public Safety. The program shall be uniform with standardized criterion and the Firearms Instructor will be responsible for all reporting to the New Mexico Law Enforcement Academy.
7. The lead Firearms Instructor shall notify the Chief of Police regarding any person who fails to qualify with a required firearm or whom is believed to be incapable of safely handling a firearm.

FIREARMS QUALIFICATION:

Members of the Police Department are authorized to carry and use a firearm whenever they are currently qualified to do so. The minimum-qualifying standard for each type of firearm shall be established by the Firearms Instructor(s) in accordance with the standards published by the New Mexico Department of Public Safety. Firearm qualifications are established as follows:

1. Officers shall qualify with their duty weapon, optional firearm, and any approved additional firearm in accordance with the New Mexico Law Enforcement Academy minimum standards for annual firearms qualification.

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FIREARMS SAFETY:

Persons authorized to carry firearms under authority of this order are hereby charged with the responsibility to observe and practice the following safety regulations:

1. Every firearm handled shall be treated as a loaded firearm until the handler has personally proved otherwise.
2. Firearms shall not be DRY FIRED, CLEANED, REPAIRED, EXHIBITED, LOADED OR UNLOADED in any place or any manner where an accidental discharge could cause injury.
3. Firearms shall not be carelessly handled at any time.
4. Any unholstered weapon brought into the Police facility shall first be unloaded.
5. Employees shall not handle or use any firearm with which they have not qualified, except under the supervision of a Department certified instructor.
6. Firearms that are left unattended in a Police facility shall be secured.
7. All firearms that are carried with a chambered round and equipped with safety devices shall be placed in a "Safe" position, except when use is imminent or the firearm is equipped with a firing pin block.
8. Shotgun and rifle ammunition shall not be chambered, except when use is imminent.

Any accidental discharge of a firearm resulting from failure to comply with the above regulations shall be considered an act of negligence, and a violation of this Policy.

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POLICY AND PROCEDURE**

NUMBER: ADM.05.01	POLICY NO: 04-10	LAST MODIFIED 11/03/2014	EFFECTIVE DATE: January 01, 2016	PAGE NO: 1 of 8
SUBJECT: Use of Force (Objectively Reasonable Standard)			APPROVED BY: Randy Foster , Chief of Police	
NMLEA STANDARDS: ADM.05.01;ADM.05.02;ADM.05.03;ADM.05.04 ADM.06.01 LAST REVIEW: 11/23/2015				

PURPOSE:

The purpose of this policy is to guide employees in the proper and reasonable application of force during the course of their duties.

POLICY:

It is the policy of the Bloomfield Police Department that police officers shall use only that force which is reasonably necessary to maintain control of an incident while protecting the lives of themselves or another.

PROCEDURE:

The Reactive Control Model (RCM) was taught in the New Mexico Law Enforcement Academy. Generally following the RCM guidelines will be Objectively Reasonable and therefore keep you within this policy. For accreditation purposes it will be attached to the last page of this policy (to be removed during the 2016 policy review)

Definitions:

1. **Deadly Force:** Any use of force that is likely to cause death or serious physical injury.
2. **Imminent:** An event, absent intervention, that is likely to occur at some point in the near future. As in immediate.
3. **Less-Lethal Force:** Measures or equipment such as beanbag rounds or other propelled impact devices designed to incapacitate without causing death or serious physical injury. These measures, when deployed properly, still possess the potential to cause death or serious physical injury.
4. **Non-Deadly Force:** Any use of force other than that which is considered deadly or less-lethal force.

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5. **Objectively Reasonable** – This term means that in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of the threat or resistance presented by the subject, and the level of threat to the community.
6. **Physical Injury** – Any injury to a person that is not likely to cause death or great bodily injury to the person, but does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the person's body.
7. **Reasonable Belief** – Facts and circumstances known to the officer at the time, which would cause another reasonable and prudent officer to act or think in a similar way under similar circumstances.
8. **Serious Physical Injury** - Any bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.
9. **Totality of Circumstances** – The facts and circumstances of an incident, including the severity of the crime at issue, and whether the suspect posed an immediate threat to the safety of the officers, or others, by actively resisting arrest or by flight
10. **Use of Force** – The amount of effort required to compel compliance by an unwilling subject resulting in a potential for injury, excluding compliance holds that require no more than a firm grip.

USE OF FORCE CASE LAW

- A. The United States Supreme Court, in a case entitled *Graham v. Connor*, sets forth the analytical model by which all use of force cases are reviewed. As required by *Graham*, an officer's use of force is assessed by examining the facts and circumstances known to the officer including a review of the following:
 1. The severity of the suspect's crimes;

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2. The immediacy of the threat posed by the suspect to the safety of the officers or others;
and
3. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

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- B. As used by Graham, “objectively reasonable” is much like the related concepts of reasonable suspicion and probable cause. Objective reasonableness requires more than an officer’s *subjective* beliefs about a suspect and the level of threat that the suspect poses. Indeed, an officer cannot base a decision to use force on a “hunch,” a “feeling,” or some other unquantifiable belief. This is an *objective* test, which means that the officer’s good faith beliefs, for taking certain action, are irrelevant.
- C. Instead, an officer must be able to identify specific and articulable facts. Essentially, an officer must list the information that he or she observed, heard, or otherwise collected through reliable police channels and the source of that information. Sometimes just as important, an officer must identify unknowns and why this lack of information is important to an assessment of the suspect’s threat level.
- D. Based on those specific and articulable facts, an officer can then use his or her training and experience to interpret the known information and reach a reasonable conclusion as to the level of threat posed by the suspect. Stated another way, the conclusion an officer draws about a suspect must be based on the known facts.
- E. This process does not deal with hard certainties, but with probabilities. The use of the 20/20 vision of hindsight to analyze an officer’s use of force decision is prohibited. This is why the Graham test is called objective *reasonableness*, not objective *certainty*.

PROCEDURES – APPLYING FORCE

When to Use Force

Personnel will use only reasonable force necessary to accomplish lawful objectives.

Medical Aid

It is the officer’s responsibility to summon emergency medical personnel to administer treatment or render first aid when force is applied. If applicable the officer should render first aid until emergency medical personnel arrive. Officers should render first aid consistent with knowledge

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and training, taking into consideration the seriousness of the injury. Officers administering first-aid shall wear appropriate personal protective equipment, taking into account their own safety.

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LEVELS OF FORCE

A. Parameters for Use of Deadly Force

1. After weighing the respective interests of law enforcement and the suspect, the United States Supreme Court, in a case entitled *Tennessee v. Garner*, held that the Fourth Amendment authorized a police officer's use of deadly force in the following circumstance:

“Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.” ([JUSTICE WHITE, opinion of the Court Article III](#))

2. The Supreme Court, in *Garner*, also prohibited the use of deadly force in the following circumstance:

- a. “The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are slower afoot does not always justify killing the suspect. A police officer may not seize an unarmed, non-dangerous suspect by shooting him dead.” ([Justice White Opinion of the court, Article II B.](#))

Accordingly, police officers are authorized to use deadly force, by any means, to:

- a. Protect themselves or others from an immediate threat of serious physical harm;

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- b. Prevent the escape of a felony suspect who the officer has probable cause to believe that the suspect poses an immediate threat of serious physical harm to the officers or others if allowed to escape;
- c. Where feasible, some warning should be given prior to engaging in the use of lethal force.
 - 1. Officers should give appropriate medical assistance to injured suspects in circumstances where the officer's safety is no longer in jeopardy.

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- 2. Officers may also discharge a firearm under the following circumstances:
 - a. To safely destroy an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured;
 - b. During qualifications, range practice or sporting events.
- 3. Warning shots are **prohibited**.
- 4. Refer to Bloomfield Police Policy 04-11 Firearms for directives/ restrictions on firing at or from a motor vehicle.
- 5. Firearms will be carried in a safe and secure manner. Careless handling of firearms is prohibited.

A. Parameters of Use of Less-Lethal Force

- 1. In circumstances where lethal force is not authorized, officers should assess the incident in order to determine how to best de-escalate and bring the incident under control in a safe manner. Assessment may include: potential for officer or offender injury, degree of aggression by the suspect, number of suspects, possibility of escalation, number of bystanders, and potential for secondary exposure of bystanders.
- 2. Police officers are authorized to use reasonable less-lethal force techniques and equipment for resolution of incidents, as follows:
 - a. To protect themselves or another from physical injury;
 - b. To restrain or subdue a resistant individual;
 - c. To bring an unlawful situation safely and effectively under control.

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3. Less-lethal force may be used in situations where the officer reasonably believes that the suspect poses a serious threat of serious bodily harm. Less-lethal force may be used even though the subject does not pose an *immediate* threat of serious bodily harm.

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4. Less-lethal force is not designed as a substitute for lethal force but, rather as an alternative in some instances. Proper use of less-lethal force requires a sufficient amount of time for officers to confirm the circumstances of the incident and verify use of a less-lethal round. Therefore, officers are encouraged but, not compelled, to use less-lethal force rounds where feasible.
5. Less-lethal force currently consists of the use of equipment and/or techniques to incapacitate individuals without causing death or serious physical injury. However, these measures, when deployed properly, still possess the potential to cause death or serious physical injury.

Deadly Weapons:

1. Police officers shall carry only weapons and ammunition as authorized by the Department under the FIREARMS policy and procedure #:04-11, and must demonstrate proficiency in their use prior to being approved to carry such weapons.
2. All sworn personnel have access to this policy and instructed on its contents before being authorized to carry a firearm. At least once a year, as part of firearms qualifications, officers receive update training in this policy.
3. Officers are not precluded from using any means available to deploy deadly force when justified.

B. Less-Lethal Force Weapons and Techniques

1. Officers shall not use a less-lethal weapon unless qualified in its proficient use as determined by training procedures. Approved less-lethal force weapons are:
 - a. Straight Baton; this weapon is currently authorized for use by department personnel. Expandable batons are also authorized. Update training is conducted periodically. Batons will be approved through training guidelines.
 - b. Oleoresin Capsicum(OC), Capsicum, type chemical products primarily known as pepper spray, these are products issued to officers. Initial training is required with periodic update training.

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- c. Conducted Electrical Weapons (CEW) are currently issued to designated officers. Initial training and annual proficiency exams are required as described in the USE OF TASER DEVICE policy and procedure # 05-04
- d. Bean bag rounds; Only officers trained in the use of this less-lethal option may deploy less-lethal weapon systems. Officers should be familiar with and follow the guidelines in the USE OF BEANBAG ROUNDS policy and procedure #:97-05.

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- 1. Empty hand and unarmed impact techniques currently taught to officers in advanced and in-service training. Techniques will be approved through training guidelines.
- 2. This does not preclude the officer from using any means available in cases involving exigent circumstances.
- 3. Officers should obtain appropriate medical treatment for suspects after utilizing less-lethal force weapons or techniques. In most cases, proper treatment would consist of examination by a physician.

C. Reporting Use of Force:

All officers involved in any use of force incident shall prepare the appropriate department use of force form and document the event in the report narrative or supplement.

Non – Deadly Force Incidents

- 1. In all other instances when force is used, whether or not it results in an injury, officers shall document the use of force, any injury or alleged injury, in the department's use of force report. Officers who directly or indirectly witness such police actions, shall document their involvement on a supplement report.
- 2. A supervisor will be immediately notified of any incident involving the use of force meeting the following criteria:
 - a. When a firearm is discharged outside of the firing range, except during legitimate sporting events.
 - b. When use of force results in death or injury;
 - c. When a citizen complains that an injury has been inflicted.

Supervisors will review each use of force incident and when feasible take digital pictures of visible injuries sustained during these events.

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Use of Force Reports

1. The use of report shall include:
 - a. detailed description of the events leading to the necessity for the use of police action;
 - b. The amount and type of force used;
 - c. The nature and extent of any injuries and treatment rendered to the officers and subjects;
 - d. The identity of combatants, officers involved, witnesses and medical personnel involved, if applicable, and
 - e. All other pertinent information.
2. If an officer is unable to write the report, the on-duty supervisor will ensure the necessary report is properly prepared and forwarded.
3. Supervisors shall ensure that a written report is submitted in all instances force is used by an officer. Supervisors shall review all use of force related offense/incident reports.

Deadly Force Incidents

When a police officer's use of force, or other actions, causes death or serious injury refer to the Bloomfield Police Department's "Officer Involved Shooting Policy" # 01-14

All administrative and criminal investigations will be conducted independently of each other.

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Works Cited

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POLICY AND PROCEDURE**

NUMBER:	POLICY NO:	LAST MODIFIED:	EFFECTIVE DATE:	PAGE NO:
ADM.05.01.1	01-14	12/22/2014	January 01, 2016	1 of 7
SUBJECT:			APPROVED BY:	
Officer Involved Shooting			Randy Foster, Chief of Police	
NMLEA STANDARDS: ADM.05.04		LAST REVIEW: 11/23/2015		

PURPOSE:

To establish fair and impartial procedures for the investigation of officer involved shootings. It also outlines the assignment of a liaison officer to assist involved officer(s) through administrative and emotional support

POLICY:

It is the Policy of the Bloomfield Police Department to investigate impartially all on-duty or off-duty officer involved shootings. In order to ensure this, all Officer involved Shootings will be investigated by the New Mexico State Police. The department shall make a liaison officer available to any involved officer to assist with administrative and emotional support.

DEFINITIONS:

Officer Involved Shooting – An officer involved shooting occurs when a commissioned officer discharges a firearm during the lawful discharge of his/her duty, whether or not the intended target was hit. An officer involved shooting may occur while an officer is off-duty depending on the circumstances and whether or not the officer was acting under color of law. An officer involved shooting is not when an officer negligently discharges a firearm or discharges a firearm while committing a crime.

TYPES OF INVESTIGATIONS:

Officer involved shootings require two separate investigations.

- A. A criminal investigation of the incident by the New Mexico State Police.
- B. An administrative investigation conducted by the Bloomfield Police Department's Professional Standards Division to determine if there were any violations of policy, procedure or any other rules and regulations.

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PROCEDURE:

SUPERVISOR RESPONSIBILITIES

- A. Upon arrival at the scene of an officer involved shooting, the first uninvolved supervisor shall:
1. Take all reasonable steps to obtain emergency medical aid for all injured persons.
 2. Take incident command and secure the scene of the incident with additional personnel until relieved by proper authority.
 3. Obtain an overview and/or public safety interview of the situation from any officer(s) who did not discharge their firearm.
 - a. If only the officer who discharged his/her firearm is available, the supervisor may ask for a voluntary statement concerning public safety information necessary to secure the scene and pursue suspects. If necessary, the supervisor may administratively order any Bloomfield Police officer to immediately provide public safety information necessary to secure the scene and protect the public. Public safety information shall be limited to:
 - 1) Outstanding suspects
 - 2) Suspect(s) descriptions
 - 3) Number and direction of shots fired
 - 4) Perimeters of the scene
 - 5) Identity of any known witness
 - 6) Other information necessary to safeguard the public
 - b. The first responding supervisor shall not order or compel a statement from any officer involved other than to provide public safety information.

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4. Make all necessary notifications of the incident as outlined in Policy #04-10 to include the Chief of Police and or either Lieutenant.
5. Arrange for the officers who discharged a firearm to be transported to the Bloomfield station for further direction once the lead investigator has released the involved officers from the scene. If more than one officer is involved, each officer should be transported separately to protect the accuracy of each officer's statement.
 - a. Involved officer(s) shall not discuss the incident with other involved officers pending direction from a supervisor, (Involved officers may discuss the incident with their attorney and psychological counselor.)
6. Preserve the integrity of any physical evidence present on equipment, clothing, or the involved officer(s) until investigators can properly retrieve it.
7. Secure the involved officer's firearm as evidence
 - a. When an officer is required to surrender his/her firearm as evidence, the officer shall be provided with a comparable replacement firearm or immediately transported to the Bloomfield Police station by another commissioned officer.

INVESTIGATION PROCEDURES:

- A. The New Mexico State Police shall investigate officer involved shootings. The New Mexico State Police shall conduct a criminal investigation into the circumstances of an officer involved shooting, whether or not the intended target was struck or anyone was injured. The Patrol Lieutenant shall assign personnel to the New Mexico State Police as needed.

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- B. Once public safety issues have been addressed, the New Mexico State Police will begin its investigation of the officer involved shooting. The New Mexico State Police will have full access to the scene, evidence, and reports. The New Mexico State Police shall interview and/or interrogate, victims, suspects, witnesses, and any officers involved in the incident.
1. Interviews and/or interrogations of the officers shall be in accordance with Article 14 of New Mexico Statute 29-14-1 through 29-14-11 NMSA1978
 2. Any involved officer may request and be afforded the opportunity to consult with an attorney of his/her choosing prior to speaking with a criminal investigator.
 3. Voluntary statements provided by officers will be made available for inclusion in the administrative and/or other related investigations.
 4. Administratively compelled statements shall not be provided to any criminal investigators unless the officer consents or the release is authorized by law.

INVOLVED OFFICER(S):

- A. Investigators shall make reasonable accommodations to the involved officer's physical and emotional needs.
- B. Any officer who discharges a firearm at a person shall be placed on administrative leave with pay for at least three (3) days. When an officer discharges his/her firearm at an animal the officer may be placed on administrative leave with pay at the discretion of the Chief of Police. This is intended to provide time for the involved officers to recover from the physical, mental, and emotional stress of the incident.
1. Administrative leave may be extended based the totality of the circumstances, the best interests of the investigation, and the best interests of the involved officer.
 2. Should a large number of officers be involved in a shooting incident and placing them all on administrative leave prove to be impractical, the Chief of Police may allow the officers back to duty after each has met with a mental health professional. The Chief of Police may also temporarily reassign employees as needed to ensure proper staffing levels throughout the department.
- C. Involved officers shall not discuss the incident with other involved officers or coworkers and may receive further guidance from a supervisor. Involved officers should be cognizant that not all conversations are considered privileged and comments may be used against the officer.
- D. Employees shall not discuss or post comments concerning the incident on social media or social networks.

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- E. The department shall provide a mental health professional to each involved officer or any officer upon request.
1. Interviews and conversations with a licensed medical health professional are privileged and will not be disclosed except to the extent that the officer is or is not fit to return to duty.

ADMINISTRATIVE INVESTIGATION:

In addition to the criminal investigation, the Bloomfield Police Department shall conduct an administrative investigation to determine any policy violations, policy weaknesses, and/or training needs. Professional Standards shall conduct administrative investigations. Administrative investigations shall commence at the conclusion of the criminal investigation to avoid contaminating the criminal investigation with protected disclosures made by involved officers.

- A. Any officer involved in an officer involved shooting shall be administratively compelled to submit to drug and/or alcohol screening in accordance to City of Bloomfield Policy 9.5
- B. The Professional Standards investigator shall review the criminal investigation in its entirety before proceeding with administrative investigation and any interviews of those involved.
- C. All interviews conducted by Professional Standards shall conform to the Peace Officer's Employer-Employee Relations Act.
- D. The Chief of Police may request the assistance of appropriate subject matter experts to assist with the investigation and/or interviews.
- E. Professional Standards shall compile all relevant information, reports, and findings for the Chief to determine compliance with Bloomfield Police / City Policy and any other rules and regulations.

MEDIA RELATIONS:

A media release shall be prepared regarding Bloomfield Police officer involved shootings in a reasonable time. The Chief of Police and the New Mexico State Police Supervisor shall approve information released. The Chief of Police may also call a press conference to communicate the nature of the incident and ongoing investigative procedures.

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REPORTING:

- A. In the event that a suspect remains outstanding or subject to prosecution for related offenses, the department shall retain the authority to require the involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.
- B. Investigators who shall interview involved officers as victims/witnesses shall complete initial reports. Since the purpose of these reports will be to facilitate criminal prosecution of suspects, statements of involved officers should focus on evidence to establish the elements of any crime charged.
- C. The involved officer's supervisor shall complete reports of employee injury.

OFFICER INVOLVED SHOOTING LIAISON OFFICER:

- A. The department shall make available a liaison officer to assist the officers involved in an officer involved shooting. The liaison officer shall be:
 - 1. A commissioned officer in good standing with the department.
 - 2. An officer chosen with the assistance of the involved officer.
- A. The liaison officer shall be assigned as soon as practical by the Chief of Police or requested by the involved officer to assist and act as a secondary point of contact for the involved officer. At the Chief's discretion Liaison, officers may be temporarily reassigned from their regular duties.
- B. After being assigned as a liaison officer, the liaison officer shall:
 - 1. Attend a briefing about the incident by the Chief of Police or his/her designee
 - 2. Make reasonable attempts to contact and inform the involved officer of the assignment as liaison officer. The involved officer may waive the need for a liaison officer. The liaison officer shall inform the Chief of Police of the involved officer's refusal of a liaison officer, and resume his/her normal duties.
 - 3. If the involved officer chooses to accept the assistance of a liaison officer, the liaison officer shall:
 - a. Assist the involved officer in contacting legal representation.

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- b. Keep daily contact with the involved officer in order to check the welfare of the involved officer and his/her family.
- c. Give regular feedback to the Chief of Police or designee as to the status of the involved officer.
- d. Provide transportation to the involved officer for:
 - 1) Interviews
 - 2) Employee Assistance Program (EAP) meetings or other physical and/or mental health services
 - 3) Victims Assistance meetings
 - 4) Any other official business as needed
- 4. Ensure regular communication between the involved officer(s) and the Chief of Police or his/her designee as to the status of the investigation.
- 5. The liaison officer shall not discuss the investigation, other than general status, with the involved officer. Conversations between the involved officer(s) and the liaison officer are not privileged communications.

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NUMBER:	POLICY NO:	LAST MODIFIED:	EFFECTIVE DATE:	PAGE NO:
ADM.06.02	05-04	12-20-2014	01/01/2016	1 of 3

SUBJECT: Use of Taser Electronic Immobilization Device	APPROVED BY: Randy Foster, Chief of Police
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NMLEA STANDARDS: ADM.06.01

LAST REVIEW: 11/23/2015

PURPOSE:

To provide department personnel with guidelines on the proper use of the department issued X-26 Taser Electronic Immobilization Device.

POLICY:

It is the policy of the Bloomfield Police Department to utilize the X-26 Taser as an additional tool in situations that warrant the use of non-lethal force.

PROCEDURE:

The Taser device is to be used to subdue or control a violent or potentially violent subject. The availability of a Taser device is not intended to replace verbal commands, control holds, other self defensive techniques; including impact weapons or firearms.

Given that no policy can realistically predict every possible situation an officer might encounter in the field, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident; however, passive resistance or flight alone, absent an immediate threat to the officer or public, does not generally give rise to a level of behavior to warrant the use of the Taser device. The Taser device can be used to subdue a person who presents an immediate threat to the officer or public and or is actively resisting lawful arrest. (*Graham vs. Conner*) While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to actually sustain physical injury before applying reasonable force.

In addition to the guidelines outlined in this policy, officers must also follow the policy and procedures outlined in the Use of Force Policy #: 05-01 when deploying the Taser Device.

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Training:

Only those persons who are properly trained and certified are authorized to carry or use a Taser device. Each certified officer must attend annual training to maintain their certification.

Restrictions:

The Taser device is deployed and fired at the discretion of the certified operator who is familiar with the realm of its effectiveness. The Taser or dart contacts shall not be intentionally applied to the head, neck or genital area of any person. The Taser device will not be used on people who weigh less than 50 pounds. The Taser may produce a spark and therefore environmental factors, such as the presence of a flammable liquid, need to be taken into consideration.

Deployment:

Employees who are certified and subsequently issued a Taser device will maintain the device in such a condition that it can be immediately deployed.

Required Medical Aid:

In any case in which the Taser, or its darts, come into contact with a subjects head, neck, or genital area; including the breast area of a female, the subject will be transported to the Emergency room for medical treatment or evaluation prior to booking. Removal of the Taser darts from the aforementioned areas will only be done by medical personnel at the hospital. Darts may be removed from other parts of the body at the discretion of the operator or the person must be taken to the Emergency room for treatment. In all cases where the operator removes the darts, universal precautions will be taken to avoid the transfer of body fluids. The darts, air cartridge, wire leads and APHIDS will be collected and placed in a sharps "biohazard" container and booked into evidence.

Reporting the Use of the Taser Device:

Except for training or certification purposes any deployment of the Taser, including all discharges of the Taser device, are documented in accordance with the Use of Force Policy.

Digital photographs will be taken of areas impacted on a person with the Taser device and forwarded to the Lieutenant along with the Use of Force Report.

After a discharge, other than routine testing, officers will submit the Taser device to the Lieutenant who

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will have the data downloaded and included in the use of force records.

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Inspections:

The Patrol Lieutenant will keep an inventory of Taser devices and related equipment. Any malfunctioning device will be immediately removed from service and sent to Taser International for repair. The Administrative Analyst will manage the Taser computer management program and associated records. Periodic inspections may be done by supervisors', including data downloads to determine the number of discharges associated with a Taser device.